

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA**

CHARLESTON DIVISION

DAKOTA STEVEN PROCTOR,

Plaintiff,

v.

CIVIL ACTION NO. 2:19-cv-00287

BRENT BOURCHERS,
Deputy Sheriff, Kanawha County Sheriff,

Defendant.

ORDER

Pending before the Court are Defendant Brent Bouchers' Motion to Dismiss, (ECF No. 11), and Motion to Designate his Motion to Dismiss for Failure to Prosecute as Unopposed, (ECF No. 13). By Standing Order entered on January 4, 2016, and filed in this case on April 17, 2019, this action was referred to United States Magistrate Judge Dwane L. Tinsley for submission of proposed findings and a recommendation for disposition ("PF&R"). (ECF No. 3.) Magistrate Judge Tinsley filed his PF&R on November 22, 2019, recommending that this Court grant Defendant's Motion to Dismiss as Unopposed, (ECF No. 13), grant Defendant's Motion to Dismiss for Failure to Prosecute, (ECF No. 11), and dismiss this matter for Plaintiff's failure to prosecute pursuant to Rule 41(b) of the Federal Rules of Civil Procedure. (ECF No. 14.)

The Court is not required to review, under a *de novo* or any other standard, the factual or legal conclusions of the magistrate judge as to those portions of the findings or recommendation to which no objections are addressed. *Thomas v. Arn*, 474 U.S. 140, 150 (1985). Failure to file

timely objections constitutes a waiver of *de novo* review and the Plaintiff's right to appeal this Court's order. 28 U.S.C. § 636(b)(1); *see also Snyder v. Ridenour*, 889 F.2d 1363, 1366 (4th Cir. 1989); *United States v. Schronce*, 727 F.2d 91, 94 (4th Cir. 1984). In addition, this Court need not conduct a *de novo* review when a party "makes general and conclusory objections that do not direct the Court to a specific error in the magistrate's proposed findings and recommendations." *Orpiano v. Johnson*, 687 F.2d 44, 47 (4th Cir. 1982).

Objections to the PF&R in this case were due on December 9, 2019. (ECF No. 14.) To date, Plaintiff has failed to submit any objections in response to the PF&R, thus constituting a waiver of *de novo* review and Plaintiff's right to appeal this Court's order.

Accordingly, the Court **ADOPTS** the PF&R, (ECF No. 14), **GRANTS** Defendant's Motion to Dismiss as Unopposed, (ECF No. 13), **GRANTS** Defendant's Motion to Dismiss for Failure to Prosecute, (ECF No. 11), and **DISMISSES** this action **WITHOUT PREJUDICE** from the docket of the Court.

IT IS SO ORDERED.

The Court **DIRECTS** the Clerk to send a copy of this Order to counsel of record and any unrepresented party.

ENTER: December 12, 2019


THOMAS E. JOHNSTON, CHIEF JUDGE